

U.S. Application No. 09/776,188 Examiner NGUYEN Art Unit 3625
Request for Reconsideration in Response to March 25, 2005 Final Office Action

REMARKS

In response to the Final Office Action dated March 25, 2005, the Applicants respectfully request reconsideration based on the following remarks.

The Office variously rejects the pending claims under 35 U.S.C. § 103 (a) as being obvious. Various combinations of *Arjomand*, *Tanielian*, *Takakura*, *Razavi*, and *Phillips* are cited as prior art. Yet none of these patents, whether considered singularly or in any combination, teaches or suggests all the claimed features. Each of the independent claims, for example, recites “*wirelessly communicating the diagnostic message to a manufacturer of the vehicle.*” None of the cited patents teaches or suggests wirelessly communicating diagnostic information “*to a manufacturer of the vehicle.*” Because these patents fail to teach or suggest this feature, the Examiner’s *prima facie* cases of obviousness must fail.

The Applicant’s believe this feature is novel and unobvious. The Applicant’s paid for a professional search and submitted a comprehensive Information Disclosure Statement. None of the references cited during the prosecution of this application teach or suggest “*wirelessly communicating the diagnostic message to a manufacturer of the vehicle.*” Examiner Nguyen states that “[i]t is the examiner’s position that claiming a wireless communication between 2 parties (a vehicle and that vehicle’s manufacturer”) is not an inventive concept.” See March 25, 2005 final office action at page 2, paragraph 2. The Applicants, however, are not generically claiming a wireless communication between two parties. The Applicants, instead, specifically claim diagnostic messages are wirelessly communicated to a manufacturer of a vehicle. Yet no where has Examiner Nguyen identified a reference that teaches such a feature. Examiner Nguyen has the burden of producing an anticipating reference or a *prima facie* case. Bald assertions cannot satisfy this burden.

Examiner Nguyen, then, is respectfully requested to withdraw the final office action. The Applicants ask Examiner Nguyen to cite prior art that teaches or suggests “*wirelessly*

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communicating the diagnostic message to a manufacturer of the vehicle." If no prior art can be found, the Applicants respectfully request a Notice of Allowance.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 387-6907 or scott@scottzimmerman.com.

Respectfully submitted,



Scott P. Zimmerman
Reg. No. 41,390